

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION
RECEIVED**

Larry D. Thomas

2006 OCT 31 P 1:20

Plaintiff/pro se

Civil Action 02:05-cv-437-T
DEBRA P. HACKETT, CLERK
U.S. DISTRICT COURT
MIDDLE DISTRICT ALA.

Vs

**R James Nicholson
Secretary, Department of
Veterans Affairs**

**MEMORANDUM IN SUPPORT OF PLAINTIFF MOTION TO PROCEED
TO TRIAL OR IN THE ALTERNATIVE, MOTION FOR SUMMARY
JUDGEMENT**

INTRODUCTION

The defendant has made such an action as to terminate the plaintiff Mr. Larry D. Thomas while during his probationary period. Defendant's refuse to look at the primary facts; the Office of Personnel Management section 315.804, (Termination of probationers for unsatisfactory performance or conduct, that all federal employee adhere to assure fair treatment to all in addition to race, age, gender.

STATEMENT OF FACTS AND COURSE OF PROCEEDING

Mr. Larry Thomas was made a job offer by Mr. Harald Carlisle while living in Bloomington California early March 2004 and the offer was accepted. Mr. Thomas was hired as the Vista Imaging Implementation Manager. I understood nothing about the V A and their policies, but I was aware of how to conduct myself in a professional environment and the roles of project management and their duties. My direct supervisor would be the Chief Information Officer in accordance with the paper work given to me upon hire.

VISN 7 consist of 2 states Alabama and Georgia, Tim Egan was the Senior Imaging manager GS-14. Defendants never clearly define the role of the Implementation manager; all job instructions were given by the VISN. I have enclosed the duties of a project manager in accordance with the Office Of Personnel Management. I was hire to lead the Implementation effort at CAVHCS and was never allowed to do my job.

I would have been more efficient than Mrs. Venne in the vista Imaging system, provided I was given the opportunity to work with the Vista Imaging network. I was directed by Mr. Carlisle to focus on training and leave the system to Mrs. Venne.

(Discrimination) Defendants clearly not following proper protocol in the way plaintiff was terminated. The plaintiff was not given in notice of warning during the last six months of employment the he was not meeting the agency expectation we the service being provided. The plaintiff has been able to prove the including his time of travel he would have been consider a government employee which mean my official started date would have been Friday May 15 2004, I was ask to report to duty the following week after my accepting the job, But Mr. Thomas stated to Mr. Carlisle that he would have to give proper notice and close out business. Mr. Thomas agreed with Mr. Carlisle that he would be driving his personal own vehicle and that he would arrive no later than May 18, 2004. Mr. Carlisle agreed and Mr. Thomas was also paid for lodging and food doing his travel, which means I was under orders to report and based on my report day the government also gives you 5 days of travel coming from the distance I traveled. Lets also keep in mind the 2004 was a leap year with 29 Days in February 2004 that clearly place me out of the probationary window.

(Discrimination) The discrimination started, the day Mr. Thomas reported to Mr. Carlisle office. Mr. Carlisle (VISN 7 Network Manager), acting Chief Information Officer started undermining Mr. Thomas the first day of service. Mr. Carlisle placed Mr. Ty Beasley a pharmacist as my supervisor and I was hired to be a project manager. In a normal environment the system Managers and any others working on Vista Imaging should report to Implementation Manager, but I was never given the latitude to do my job.

(FACT) None of the other Vista Imaging Managers were placed under anyone and they were all white.

(Discrimination) From the time Mr. Thomas arrived and they found out I was black they allowed Mrs. Venne to setup my admin account, and they knew she did not give Mr. Thomas the security keys to do his job. **(FACT)** All other employees hired before and after Mr. Thomas at CAVHCS after were setup by the software group except Mr. Thomas.

(FACT) They were setting me up to fail before I got started.

(Harassment) after my second month in the service Mrs. Venne started to attack me with false allegations to Mr. Carlisle saying things like something happen on the network, she believe that Mr. Thomas must have tampered with the server. Mr. Beasley would know the allegations were false, and would tell the truth, so Mr. Carlisle would have to back off.

(Discrimination) Mr. Thomas was never given and office while working at CAVHCS, but people in IT with lower grades were given offices in the area where I was sitting and no justification given; as a matter of fact Charles Wacker was given two offices in the time I was a CAVHCS and we started on the same day.
All the white IT workers were given and office.

When Mr. Greer was given the job CIO (Chief Information Officer) we sat down and talk and he said I do not know what Mr. Carlisle had against you, but your slate start clean here. It was comforting to know Mr. Greer had notice Mr. Carlisle was gunning for me for no apparent reason, to find he was only trying to get me to let my guard down and not suspect they were still to terminate me.

(Discrimination) Mr. Greer violated my privacy on two occasions to my knowledge, when he grab my laptop and searched it to find I had Kazaa on my laptop. I was written up for having Kazaa on my laptop, but Marlin the east campus System Manager, Tom Ash the Vista Network Database Manager also was found with Kazaa on their computer and they were not written up. It really should not matter; Mr. Greer was in a position to write up anyone on the network that violated VA security policy.

They were both White and not written.

(Harassment) The (Vista Imaging System Manager), Saundra Venne and Mr. Thomas should have been working as a team to implement Imaging, but as soon as the project started she got to a point where she did not want to talk to Mr. Thomas or have anything to do with Mr. Thomas. Mr. Thomas did his best to work with Mrs. Venne, but she refuses to work with Mr. Thomas. Mr. Greer, Mr. Carlisle, Mr. Mr. Beasley and Mr. Joey Wilks were all made aware of Mrs. Venne not working as a team. Mr. Carlisle, Mr. Mr. Beasley, Mr. Greer, Mr. Joey Wilks and Mrs. Venne had meetings to address the communication issues between Mrs. Venne and Mr. Thomas, but every time we attend a meeting Mr. Carlisle, (VISN 7 Network Manager), would start to attack Mr. Thomas as if as if he had did something wrong. All supervisors were there to Address Mrs. Venne problems. Mr. Carlisle would always attach Mr. Thomas in the meeting.

(Discrimination) On the week of August 25, the National Implementation team came to Montgomery and setup the Imaging gateways and databases. The area was small and did not provided must room, so the system manager Mrs. Venne work with national team first hand and was to bring Mr. Thomas up to speed with the system. Mrs. Venne took notes on all the things she needed to do while I worked with the Implementation trainer. The following Friday August 25th, Mrs. Venne was absent and the network went down. Because I was new and did not understand the system yet I went for assistance to be sure of what needed to be done, knowing the system had to be rebooted Mr. Thomas did not know the impact of rebooting the imaging server. Mr. Thomas ask the network manager (Steve Edwards) to assist him, and Mr. Edwards had to reboot the system to bring the network back online. The next Monday Mrs. Venne return to work, and ask if I reboot the system, Mr. Thomas told her no, Unknown to Mr. Thomas, Mrs. Venne had gone downstairs and spoke to Mr. Carlisle (VISN 7 Network Manager), and told him that I had rebooted the system and lost patient information.

Mr. Carlisle call Mr. Thomas to his office about 10:00 am September 2, 2003 and ask why did I reboot the system? Mr. Thomas told Mr. Carlisle, that he did not reboot the system; Mr. Carlisle stated Mrs. Venne said that you did reboot the system and patient information was lost. Mr. Carlisle went on to say that he was pulling my network privileges based on Mrs. Venne statement. Mr. Thomas then ask Mr. Carlisle, how can I learn my job, if I do not have access to the network? Mr. Carlisle then stated that he was going to pull my privileges until I get more familiar with the system. I'd then informed Mr. Carlisle that Steve Edwards, rebooted the network (network Manager), and Mr. Carlisle picked up the phone and call Mr. Edwards, that verified he had rebooted the system. Mr. Thomas then stated, Mr. Carlisle, I did not reboot the network, and my privileges should not be revoked. Mr. Carlisle said nothing, and let his first call stand. At that point I knew Mr. Carlisle was out to sabotage my employment.

(Discrimination) One of the national training managers was trying to setup my classroom demo and he realize, that I did not have all the security keys I need to do my job. I reported this to Mr. Beasley and Mr. Carlisle stated they would look into my security key problem and the national training manager also told them in his final report. From that time Vista Imaging started, Mr. Thomas have always had to ask for security keys to do my job in which he was assign to do. **(Exhibit XX)**

(Harassment) On September 24th prior to attending this meeting, I was ask by Mr. Greer and. Mr. Carlisle to bring proof of my certifications. At this time, I felt they had overstepped their boundaries. Mr. Greer was not my supervisor at that time, so he did not have the right to request anything. The information that was requested could have been found in my personnel file and my personnel certifications were not their business. The federal government set standards, so that people could not just go and hire their friends, family, and people because they were White. Upon presenting my certifications to Mr. Greer, and Mr. Carlisle, Mr. Greer had the nerve to ask, how do I know these certifications are real. I stated to Mr. Greer, if you want to find out, you need to call Microsoft and Linux and verify that my certifications are real and authentic.

(Exhibit XX)

(Discrimination) **I am hired to do a job, but management want allow me to perform the duties in which I was hired.** September 25, another meeting was held with Mrs. Venne and Mr. Thomas, to discuss communicating more effectively. Mrs. Venne accuse me again of messing up the network and Mr. Carlisle once again, believed what Mrs. Venne had stated. Mr. Carlisle stated that I should not be messing with the network, and that my server privileges would be taken away. Mr. Thomas asked why; if he did not do anything? Mr. Carlisle stated let's just let Mrs. Venne handle the network, and you concentrate on the training and see if this stop some of the problems. This system was new for everyone, and without working with the system there was no way to learn the system. **I'm being denied the opportunity to perform the full scope of my job PD they gave me.**

(Discrimination & Harassment) During late October, I'm not sure of the date Mrs. Venne allegation was made, but Mrs. Venne accused me of sexual harassment, which she could not proved. Mrs. Venne went to the EEOC and filed a complaint without following proper protocol. Mr. Thomas was never even aware there was and issue. Mr. Thomas denied all allegations, but was forced to agree to mediation to assist in deflating the issue. I started to believe that Mr. Carlisle, Mr. Greer and Mrs. Venne was working together to build a case against me.

Mrs. Venne alleged that Mr. Thomas fondle his self when ever he is in her present.

These were the initial allegations.

Mrs. Venne had no proof of the said charges and everyone could see she was making things up as she opens her mouth.

Mrs. Venne has never said anything to Mr. Thomas or anyone else in management about the said allegation until she reported it to Mrs. Mohammad. Upon arriving in mediation, Mrs. Venne could not prove anything and the allegations went from fondling his self to speaking to her in a condescending

tone. All lies.

The resolution is on file.

Mr. Thomas is being dragged through the mud on boggiest charges to try and paint this bad picture.

(Discrimination & Harassment) October 30, 2003

Present in this meeting was Mr. Carlisle Carlisle, William Greer, Toni Mohammed, and Ty Mr. Beasley.

I was given a mid term performance appraisal where I was accused of everything wrong that a person could possibly do and things I did not do. Mr. Greer, then read Mr. Thomas evaluation, and Mr. Thomas did not agree with anything that was written.

Mr. Thomas then asks; what exactly is the job I should be doing that I'm not doing? Mr. Carlisle started to tell Mr. Thomas that Dr. Shroff the Chief of Radiology was very upset, he did not get trained, and he felt that you were not capable of training him.

First of all Mr. Carlisle, twisted Dr. Shroff words. Dr Shroff never made such a statement. He realize that he could not be trained because the equipment was not ready, that meant Dr. Shroff, was disappointed with the service which happens to be a Mrs. Venne area of responsible (system problem). Once again, I was accused for system problems. The national trainers were to train Dr. Shroff and work with Mr. Thomas on the new Radiology software, they could not train Dr. Shroff do to the system not being ready, images were flipped and certain parts of the application did not work. email document for proof. **(Exhibit XX)**

.At this time, my management did not have a job description in place for the current job I was to perform. I'd then asked Mr. Carlisle and Mr. Greer, how can you evaluate me, if you don't even have a job description to evaluate me by? Management did not know what they were hiring for and according to what they explain to Mr. Neeley, they still do not have a clue. Mr. Thomas was hired on a system manager, PD and that is not what I was hire to do. For weeks, the VISN sent out emails asking the implementation manager's throughout the VISN what do they do?

My first evaluation could not be used because there was no job description of duties for the implementation manager's. Documentation of proof: **(Exhibit XX)**

(Discrimination) From the time I reported own board, my job was being sabotage by senior management in the service line. As the implementation manager, I'm should have been given the same security keys as the system manager, which is the eve menu because the second part of my job is to fill-in when she is absent. I was never given all my security keys until I had been in the service for approximately nine months. I knew my security keys were incomplete, but it was embarrassing when I would be trying to take care of a customer and would need to request access to security keys to do my job. They would then issue me one key at a time (Exhibit XX).

(Harassment) A new patch, had been pushed out by the VISN, Mrs. Venne did not follow all the instructions and stated to Mr. Greer, that setting up the procedures and consults that came with the patch was the duties of the Implementation manager. Mr. Greer then contacted me stating by the end of the day, that procedure should be complete. Mr. Thomas then started to investigate to see what had been done to assist in correcting the issue. What I found was Mrs. Venne had not

completed the process, which was included in her instructions. Mr. Thomas then call Mr. Greer that afternoon and stated to him, how can I do setup any network installations when I do not have the security keys? Once again, Mrs. Venne accusing me of not doing my job and I had to prove myself to management that she was to blame. Mr. Greer knew what was going on, but the was out to harassment me.

At this time Mr. Thomas, currently had about 30 security keys, the following Monday. I had over 150 security keys assigned to me. Mr. Thomas was blown away to find so many security keys assigned to him and due to the problem that happen on Friday Mr. Thomas looked at my security keys that Monday. All year long I had been asking for my security keys, because I had been in several places where I needed to access certain files, Mr. Greer would issue security keys to me one by one.

(Harassment) Mr. Thomas arrived to work one morning to find most of his primary security keys had been removed. They would not say who did it, but I know there is a log of any and all active that takes place on the network. Management had the ability to trace it back to the person who did it, but they did not. (I know management was responsible, that's why I never found out who did it). Mr. Greer just sweep the hold matter under the rug.

(Discrimination) The last performance appraisal given to me at my termination was the very same one use in my six-month performance appraisal minus the lies told about the training of Dr. Shroff. Management has not produce one statement of performance counseling for Mr. Thomas over the last six months of service because he was doing a great job. There is know performance problem issues at all, but poor email (Hum), but for some reason you can understand me now. My six-month performance appraisal was removed and not to be use based on the (PD) job duties they never gave me.

I have a copy of the standards that was given for my first evaluation, and they utilize the same thing for my final evaluation and photocopy my signature also. It looked as if they made a copy of their new signature alone with my old signature and then sign their name and dated it, and recopied the information.

(Exhibit XX)

The information given against me, in these letters of contact are false statements. Mrs. St. Onge is only playing along with the system. She walked in, on a meeting being held by Kate McLean, Mr. Holt and Mr. Thomas and took over the conversation and started accusing IT personnel of driving the medical process. I stated to Mrs. St. Onge that we are here as support personnel and if the process was a problem, she needed to talk to Mr. Beasley. Mr. Beasley was in control of (CPRS) electronic medical record, anything concerning that was under his control and that the standards which I'm giving are set by HIPPA and the national CPRS standards committee. Mrs. St. Onge, then called Mr. Beasley into the meeting, and he's stated the same thing that Mr. Thomas told her. If Mrs. St Onge wanted to change the rules, send the information to him in an e-mail directing a change and he would be glad to do so. We only ask for documentation, to protect ourselves. The same thing, Mr. Beasley stated to Mrs.. St. Onge, Mr. Thomas had express to Mrs. St Onge also. Upon my termination hearing nothing is said about a letter of contact from Mrs. St Onge. The following Wednesday after my termination I find a letter of contact in the file from Mrs.. St. Onge stating that

I'm creating problems between the services and a lot of other lies. I have only been in contact with this lady twice, and this was one of them. The other was a casual conversation about foster children as we both were foster parents.

Mr. Thomas is the Implementation Manager, who job is to rollout new processes, to assist the service lines with problems, to train's doctors and other medical staff members as needed, and to managed other ongoing IT projects within the service line. The issue, that was being addressed, was a retinal camera in the procedure that was being use by the nurse. At the close of business that day, I ask the nurse if she would put her work on hold until I could confirm with her service line the proper procedure to follow. Mrs. St. Onge walked in on a meeting in progress with the nurse manager and the clinical administrative officer who would be the personnel to make a decision. If this matter was to go before a board that would happen at a later time. The information being given came form the Chief of Special Services, Chief of Podiatry, Chief of Optometry, several other doctors and Clinical informatics staff. A lot of money was being lost on private consults and my process corrected that by giving the non-VA doctor access to the network.

A second letter of contact was placed in my file, from Dr. St. Onge concerning a meeting that I called with her. This meeting was to merely get the H. A. S. service line to assist in the decision-making that was taking place for their service. Mrs.. St. Onge, then ask me how did I decide what process was to be implemented first; I stated that most processes are driven by the VISN and we also take input from the service lines to address there immediate needs.

Mrs. St. Onge then stated the service chiefs should not be making these types of decisions, and that the appropriate boards should be determining what things go first. Then Mr. Thomas asked it Mrs. ST Onge would sit in on a meeting with the services to make clear, what her expectations were. (She agreed)

(Management keeping me out of the loop) Instructions given by my service line was to work directly with the service chiefs of the departments and not once with any committee. With Mr. Thomas current job responsibility, I felt like I should be part of several committees to better perform my job and to keep the services and committees properly informed of what was going on but Mr. Greer stated I didn't need to be on any committees. Now I understand, that was to try and keep me away form all of the powers to be.

At my current grade (GS 12) project manager, I was never left in-charge. When the other managers would be out, they would go as far to put Chuck Wacker, (white Male) which is a (GS-9), and place them in-charge.

It got to the point, if Mr. Greer called me into a meeting I would walk into all meetings with my tape recorder, because I didn't know what they would say to me next. Once they realize I was caring a tape recorder into meeting they stop the harassment with the direct approach.

Mr. Thomas had all the email removed from my computer around the fifth-month of employment. Mr. Thomas then question Mr. Greer, what happened to my e-mail? He acted as if he did not know, but he was going to look into it, nothing ever happen, three months later my e-mails shows up in my box and a lot of my e-mails had been filtered out. It was the things that would work against them the most.

I would have a lot of email on Mr. Greer asking other Implementations managers what do they do trying to make up my job description (PD), my request to Mr. Greer and Mr. Beasley asking for my security keys, Mr. Greer denying me overtime saying it was just for system people, any time I work overtime I could only get comp-time and Mr. Greer did not even want me taking comp-time. I would get emails asking me to explain all of my overtime and other managers did not have to explain themselves.

On my start date, at Central Alabama Healthcare system, Charles, Wacker was also hired as a system analyst. Mr. Wacker has never really had a job upon arrival at the VA. He paid the telephone bill, the electric bill, and help support it remedy, which for the first six months, my remedy, didn't work. Finally, I ask Robin Leisure to fix my remedy for me. Approximately 10 months into my service, Charles Wacker was ask to assist Imaging as a mediator between Mrs. Venne and Mr. Thomas. I personnel ask Mr. Greer what is Mr. Wacker here to do, and who was he to help, I did not need any assistance. He stated as a buffer between Mrs. Venne and Mr. Thomas, but we were not having any problems. Mr. Greer also sent me and email saying that Mr. Thomas was not incharge of Mr. Wacker and I was not to tell him what to do. I ask Mr. Greer, what is going on with Mr. Wacker coming into Vista Imaging? Is he here to replace one of us? Mr. Greer said no.

Charles Wacker is now attempting to do my job, now that I'm gone.

No other individuals (Black), in our service line have had an opportunity to work outside of their job description. Because you do the job that you were hired to do or you meet the advancement criteria, but some exceptions are made for certain people.

(FACT) All of It personnel was given and opportunity to order departmental shirts about 8 months into my employment, each section of IT was to put their job on one side and their name on the other. Mr. Wacker must have been promised my job 4 months before my termination because he would have not been able to order a shirt that was not his job unless Mr. Wacker had already been promised the job. The Monday after Mr. Thomas termination Mr. Wacker was wearing Vista Imaging shirts with his name. **(White)**

(FACT) Mr. Wacker did not meet the qualification for Implementation Manager, he was given a two-step promotion, and the job qualifications were drop to a GS-11, so Mr. Wacker could take the job. This job is a GS-12 job across the VISN. This mean management open the position to the public, but did not follow proper hiring protocol. The Vista Imaging selection was not a fair hiring process. Mr. Wacker was already given the job 4 months before my termination or he would have not had the shirts made and everyone else applying was wasting their time. The union had to ask Mr. Wacker not to wear the shirt because he had not been official promoted to the position.

Management has done nothing but lied about the services that Mr. Thomas performed doing his time at CAVHCS, they have went so far as to say Mr. Thomas did not have basic computer skills and that Mr.. Thomas oral ability to speak was unsatisfactory.

This has be a disgrace to me among my peers and friends and working associates.

1. I have certifications, which were part of the reason I got selected to this

GS – 12 Position.

2. I had to meet the years of experience to get the job.
3. I pass the oral interview given by Mr. Beasley, Mr. Greer and Mrs. Mohammad.
4. I beat out other candidate on a competitive platform.

Questions:

1. If Mr. Thomas computer skills are so poor, why can Mr. Thomas hold down a contractor position for the department of defense that has now exceeded one year?
2. Why have I received a letter from Brig. General German Williams for outstanding customer service and support?
3. Why was Mr. Thomas able to teach and assist more than 100 students in get their MCSE certification at CEI Technical School?
4. Why were there so many service providers happy with Mr. Thomas customer service and the technical support while at CAVHCS?

Sign



Date

11/31/2006

Certificate of Service

Executed on October 30, 2006

Respectfully submitted,


Larry D Thomas / Plaintiff

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Montgomery, Alabama 36108**

**ATTN: Magistrate Judge Charles Coody
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